

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

PAULA CLAYTON MOWLES,	§	
	§	
Plaintiff,	§	
	§	
v.	§	C.A. No. 4:16-cv-281
	§	
NEW YORK LIFE INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	

NOTICE OF REMOVAL

Defendant New York Life Insurance Company, for the purpose only of removing this cause to the United States District Court for the Northern District of Texas, Fort Worth Division, states:

1. **State Court Action.** This is an action filed by Plaintiff on March 15, 2016 in the 67th District Court of Tarrant County, Texas, being numbered 067-284370-16 on the docket of said court, and being a suit by Plaintiff essentially to recover benefits under a life insurance certificate, plus extra-contractual claims.

2. **Diversity of Citizenship.** This action is removable under 28 U.S.C. §§ 1332, 1441 and 1446 inasmuch as the amount in controversy exceeds \$75,000.00 and is between parties with diverse citizenship. Plaintiff is an individual residing in Tarrant County, Texas (*see* Petition, ¶ 2). Defendant is a New York corporation with its principal place of business in New York, New York. [*See* Declaration, Ex. A] Therefore, Plaintiff is a citizen of Texas, and Defendant is a citizen of New York for removal purposes. There

is complete diversity of citizenship between Plaintiff and Defendant at the time of filing suit and at the time of removal. Plaintiff's petition alleges monetary relief in excess of \$100,000.00, which includes actual damages of \$50,000.00 plus treble damages under the Texas Deceptive Trade Practices Act, and attorney's fees of at least \$15,000.00. (Petition, ¶¶ 1, 4, 5, Prayer.) In determining the amount in controversy, items considered include potential liability under the policy, penalties, damages, attorneys' fees, and interest. *See, e.g., St. Paul Reinsurance Co., Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998). Moreover, Plaintiff is seeking treble damages, which is counted toward determining the amount in controversy. *See Chittick v. Farmers Ins. Exchange*, 844 F. Supp. 1153, 1155 (S.D. Tex. 1994) (DTPA or Texas Insurance Code violations enable plaintiff to collect double or treble damages and attorneys' fees, which satisfies amount in controversy requirement). This Court therefore has original jurisdiction pursuant to 28 U.S.C. § 1332, and Defendant has shown by a preponderance of the evidence that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See Norplant Contraceptive Products Litigation*, 918 F.Supp. 178 (E.D.Tex. 1996) (removal is proper if defendant shows by a preponderance of the evidence that the amount in controversy exceeds the jurisdictional amount). This action is wholly of a civil nature.

3. **State Court Documents.** Citation was issued by the Tarrant County District Clerk, and Defendant was served with process on March 31, 2016. Removal is timely under 28 U.S.C. § 1446(b). Filed simultaneously herewith is an index of the state court documents.

4. **Notice.** Defendant will give notice of filing of the Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d) and will file with the state court a notice of filing this Notice of Removal.

5. **Prayer.** Defendant prays that the United States District Court for the Northern District of Texas, Fort Worth Division, accept this Notice of Removal, that it assume jurisdiction of this cause, and that it issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

Dated: April 21, 2016

Respectfully submitted,

By: /s/ Andrew G. Jubinsky

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served on the parties listed below on April 21, 2016.

Via CMRRR:

G. Craig Hubble

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The Hubble Law Firm, P.L.L.C.

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Arlington, TX 76010

/s/ Andrew G. Jubinsky

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